

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

April 19, 2005

B-78

No. 04-4512

UNITED STATES OF AMERICA

v.

KELLY ELIZABETH MUNNINGS, Appellant

(Western District of Pennsylvania (Erie) Criminal No. 04-cr-00002-2E)

**Present:** RENDELL, FISHER and VAN ANTWERPEN Circuit Judges.

1. Motion by Appellant for Summary Remand in Light of United States v. Booker, 125 S. Ct. 738 (2005)
2. Response by the Government in Opposition to Summary Remand.

Chiquita Dyer 267-299-4919  
Case Manager

**ORDER**

Appellant's motion for summary remand is granted. Appellant challenges her sentence but not her conviction under *United States v. Booker*, 125 S. Ct. 738 (2005), and we have determined that the sentencing issues Appellant raises are best determined by the District Court in the first instance. Accordingly, we vacate the sentence and remand for resentencing in accordance with *Booker*.

By the Court,

/s/ D. Michael Fisher  
Circuit Judge

Dated: May 9, 2005

CMD/cc: Stephen M. Misko, Esq.

Michael L. Ivory, Esq.

Christine A. Sanner, Esq.



DEFENDANT'S  
EXHIBIT H